

1 micropascal at 1 m, lasting 300 milliseconds (plus or minus 15 milliseconds), and repeating every 4 seconds (plus or minus 0.2 seconds).

(2) *Pinger attachment.* An operating and functional pinger must be attached at each end of a string of gillnets and at the bridle of every net, or every 300 feet (91.4 m or 50 fathoms), whichever is closer.

(c) *Pinger training and authorization.* The operator of a vessel may not fish with, set, haul back, possess on board a vessel unless stowed in accordance with § 229.2, or fail to remove sink gillnet gear or gillnet gear capable of catching multispecies in closed areas where pingers are required as specified under paragraph (b) of this section, unless the operator has satisfactorily received pinger training and possesses and retains on board the vessel a valid pinger training authorization issued by NMFS.

(d) [Reserved]

(e) *Research permits.* An exemption to the requirements set forth in this section may be acquired for the purposes of conducting scientific or gear research within the restricted areas described in this section. A scientific research permit must be acquired through NMFS's existing permit application process, administered by NMFS.

(f) *Other special measures.* The Assistant Administrator may, after consultation with the Take Reduction Team, revise the requirements of this section through notification published in the FEDERAL REGISTER if:

(1) NMFS determines that pinger operating effectiveness in the commercial fishery is inadequate to reduce bycatch below the stock's PBR level.

(2) NMFS determines that the boundary or timing of a closed area is inappropriate, or that gear modifications (including pingers) are not reducing bycatch to below the PBR level.

[75 FR 7396, Feb. 19, 2010, as amended at 78 FR 61826, Oct. 4, 2013]

§ 229.34 Harbor Porpoise Take Reduction Plan Regulations—Mid-Atlantic.

(a)(1) *Regulated waters.* The regulations in this section apply to all waters in the Mid-Atlantic bounded on the east by 72°30' W. long. at the southern

coast of Long Island, NY at 40°50.1' N. lat. and on the south by the NC/SC border (33°51.1' N. lat.), except for the areas exempted in paragraph (a)(2) of this section.

(2) *Exempted waters.* The regulations within this section are not applicable to waters landward of the first bridge over any embayment, harbor, or inlet, or to waters landward of the following lines:

New York

40°45.70' N., 72°45.15' W. to 40°45.72' N., 72°45.30' W. (Moriches Bay Inlet)
40°37.32' N., 73°18.40' W. to 40°38.00' N., 73°18.56' W. (Fire Island Inlet)
40°34.40' N., 73°34.55' W. to 40°35.08' N., 73°35.22' W. (Jones Inlet)

New Jersey/Delaware

39°45.90' N., 74°05.90' W. to 39°45.15' N., 74°06.20' W. (Barnegat Inlet)
39°30.70' N., 74°16.70' W. to 39°26.30' N., 74°19.75' W. (Beach Haven to Brigantine Inlet)
38°56.20' N., 74°51.70' W. to 38°56.20' N., 74°51.90' W. (Cape May Inlet)

All marine and tidal waters landward of the 72 COLREGS demarcation line (International Regulations for Preventing Collisions at Sea, 1972), as depicted or noted on nautical charts published by NOAA (Coast Charts 1:80,000 scale), and as described in 33 CFR part 80. (Delaware Bay)

Maryland/Virginia

38°19.48' N., 75°05.10' W. to 38°19.35' N., 75°05.25' W. (Ocean City Inlet)

All marine and tidal waters landward of the 72 COLREGS demarcation line (International Regulations for Preventing Collisions at Sea, 1972), as depicted or noted on nautical charts published by NOAA (Coast Charts 1:80,000 scale), and as described in 33 CFR part 80. (Chincoteague to Ship Shoal Inlet)

37°11.10' N., 75°49.30' W. to 37°10.65' N., 75°49.60' W. (Little Inlet)
37°07.00' N., 75°53.75' W. to 37°05.30' N., 75°56' W. (Smith Island Inlet)

North Carolina

All marine and tidal waters landward of the 72 COLREGS demarcation line (International Regulations for Preventing Collisions at Sea, 1972), as depicted or noted on nautical charts published by NOAA (Coast Charts 1:80,000 scale), and as described in 33 CFR part 80.

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(b) *Restrictions*—(1) *Waters off New Jersey Management Area*. The Waters off New Jersey Management Area is bounded by straight lines connecting the following points in the order stated:

WATERS OFF NEW JERSEY MANAGEMENT AREA

Point	N. Lat.	W. Long.
WNJ1	40°50.1'	72°30.0' (NY shoreline)
WNJ2	38°47.0'	72°30.0'
WNJ3	38°47.0'	75°05.0' (DE shoreline)

(i) *Closure*. From April 1 through April 20, it is prohibited to fish with, set, haul back, possess on board a vessel unless stowed in accordance with § 229.2, or fail to remove any large mesh gillnet gear from the Waters off New Jersey Management Area.

(ii) *Gear limitations and requirements—large mesh gillnet gear*. From January 1 through April 30, except during April 1 through April 20, as described in paragraph (b)(1)(i) of this section, no person may fish with, set, haul back, possess on board a vessel unless stowed in accordance with § 229.2, or fail to remove any large mesh gillnet gear in the Waters off New Jersey Management Area, unless the gear complies with the specified gear characteristics described in paragraphs (b)(1)(ii)(A) through (F) of this section. During this period, no vessel may enter or remain in the Waters off New Jersey Management Area with large mesh gillnet gear on board, unless the gear complies with the specified gear characteristics described in paragraphs (b)(1)(ii)(A) through (F) of this section, or is stowed in accordance with § 229.2. In order to comply with these specified gear characteristics, the gear must have all the following characteristics:

(A) *Floatline length*. The floatline is not more than 4,800 ft (1,463.0 m).

(B) *Twine size*. The twine is at least 0.035 inches (0.90 mm) in diameter.

(C) *Size of nets*. Individual nets or net panels are not more than 300 ft (91.44 m or 50 fathoms) in length.

(D) *Number of nets*. The total number of individual nets or net panels for a vessel, including all nets on board the vessel, hauled by the vessel, or de-

ployed by the vessel, does not exceed 80.

(E) *Number of nets per string*. The total number of nets or net panels in a net string does not exceed 16.

(F) *Tie-down system*. The gillnet gear is equipped with tie-downs spaced not more than 24 ft (7.3 m) apart along the floatline, and each tie-down is not more than 48 inches (18.90 cm) in length from the point where it connects to the floatline to the point where it connects to the lead line.

(iii) *Gear limitations and requirements—small mesh gillnet gear*. From January 1 through April 30, no person may fish with, set, haul back, possess on board a vessel unless stowed in accordance with § 229.2, or fail to remove any small mesh gillnet gear in the Waters off New Jersey Management Area unless the gear complies with the specified gear characteristics described in paragraphs (b)(1)(iii)(A) through (F) of this section. During this period, no vessel may enter or remain in the Waters off New Jersey Management Area with small mesh gillnet gear on board, unless the gear complies with the specified gear characteristics described in paragraphs (b)(1)(iii)(A) through (F) of this section, or is stowed in accordance with § 229.2. In order to comply with these specified gear characteristics, the gear must have all the following characteristics:

(A) *Floatline length*. The floatline is not more than 3,000 ft (914.4 m) in length.

(B) *Twine size*. The twine is at least 0.031 inches (0.81 mm) in diameter.

(C) *Size of nets*. Individual nets or net panels are not more than 300 ft (91.4 m or 50 fathoms) in length.

(D) *Number of nets*. The total number of individual nets or net panels for a vessel, including all nets on board the vessel, hauled by the vessel or deployed by the vessel, does not exceed 45.

(E) *Number of nets per string*. The total number of nets or net panels in a net string does not exceed 10.

(F) *Tie-down system*. Tie-downs are prohibited.

(2) *Mudhole North Management Area*. The Mudhole North Management Area is bounded by straight lines connecting the following points in the order stated:

MUDHOLE NORTH MANAGEMENT AREA

Point	N. Lat.	W. Long.
MN1	40°28.1'	74°00.0' (NJ shoreline)
MN2	40°30.0'	74°00.0'
MN3	40°30.0'	73°20.0'
MN4	40°05.0'	73°20.0'
MN5	40°05.0'	74°02.0' (NJ shoreline)

(i) *Closures.* From February 15 through March 15, it is prohibited to fish with, set, haul back, possess on board a vessel unless stowed in accordance with § 229.2, or fail to remove any large or small mesh gillnet gear from the Mudhole North Management Area. In addition, from April 1 through April 20, it is prohibited to fish with, set, haul back, possess on board a vessel unless stowed in accordance with § 229.2, or fail to remove any large mesh gillnet gear from the Mudhole North Management Area.

(ii) *Gear limitations and requirements—large mesh gillnet gear.* From January 1 through April 30, except during February 15 through March 15 and April 1 through April 20 as described in paragraph (b)(2)(i) of this section, no person may fish with, set, haul back, possess on board a vessel unless stowed in accordance with § 229.2, or fail to remove any large mesh gillnet gear in the Mudhole North Management Area unless the gear complies with the specified gear characteristics described in paragraphs (b)(2)(ii)(A) through (F) of this section. During this period, no vessel may enter or remain in the Mudhole North Management Area with large mesh gillnet gear on board, unless the gear complies with the specified gear characteristics described in paragraphs (b)(2)(ii)(A) through (F) of this section. In order to comply with these specified gear characteristics, the gear must have all the following characteristics:

(A) *Floatline length.* The floatline is not more than 3,900 ft (1,188.7 m).

(B) *Twine size.* The twine is at least 0.035 inches (0.90 mm) in diameter.

(C) *Size of nets.* Individual nets or net panels are not more than 300 ft (91.44 m or 50 fathoms) in length.

(D) *Number of nets.* The total number of individual nets or net panels for a vessel, including all nets on board the

vessel, hauled by the vessel or deployed by the vessel, does not exceed 80.

(E) *Number of nets per string.* The total number of nets or net panels in a net string does not exceed 13.

(F) *Tie-down system.* The gillnet gear is equipped with tie-downs spaced not more than 24 ft (7.3 m) apart along the floatline, and each tie-down is not more than 48 inches (18.90 cm) in length from the point where it connects to the floatline to the point where it connects to the lead line.

(iii) *Gear limitations and requirements—small mesh gillnet gear.* From January 1 through April 30, except during February 15 through March 15 as described in paragraph (b)(2)(i) of this section, no person may fish with, set, haul back, possess on board a vessel unless stowed in accordance with § 229.2, or fail to remove any small mesh gillnet gear in the Mudhole North Management Area unless the gear complies with the specified gear characteristics described in paragraphs (b)(2)(iii)(A) through (F) of this section. During this period, no vessel may enter or remain in the Mudhole North Management Area with small mesh gillnet gear on board unless the gear complies with the specified gear characteristics described in paragraphs (b)(2)(iii)(A) through (F) of this section, or is stowed in accordance with § 229.2. In order to comply with these specified gear characteristics, the gear must have all the following characteristics:

(A) *Floatline length.* The floatline is not more than 3,000 ft (914.4 m) in length.

(B) *Twine size.* The twine is at least 0.031 inches (0.81 mm) in diameter.

(C) *Size of nets.* Individual nets or net panels are not more than 300 ft (91.4 m or 50 fathoms) in length.

(D) *Number of nets.* The total number of individual nets or net panels for a vessel, including all nets on board the vessel, hauled by the vessel or deployed by the vessel, does not exceed 45.

(E) *Number of nets per string.* The total number of nets or net panels in a net string does not exceed 10.

(F) *Tie-down system.* Tie-downs are prohibited.

(3) *Mudhole South Management Area.* The Mudhole South Management Area is bounded by straight lines connecting

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the following points in the order stated:

MUDHOLE SOUTH MANAGEMENT AREA

Point	N. Lat.	W. Long.
MS1	40°05.0'	73°31.0'
MS2	40°05.0'	73°00.0'
MS3	39°51.0'	73°00.0'
MS4	39°51.0'	73°31.0'
MS1	40°05.0'	73°31.0'

(i) *Closures.* From February 1 through March 15, it is prohibited to fish with, set, haul back, possess on board a vessel unless stowed in accordance with § 229.2, or fail to remove any large or small mesh gillnet gear in the Mudhole South Management Area. In addition, from April 1 through April 20, it is prohibited to fish with, set, haul back, possess on board a vessel unless stowed in accordance with § 229.2, or fail to remove any large mesh gillnet gear from the Mudhole South Management Area.

(ii) *Gear limitations and requirements—large mesh gillnet gear.* From January 1 through April 30, except during February 1 through March 15 and April 1 through April 20 as described in paragraph (b)(3)(i) of this section, no person may fish with, set, haul back, possess on board a vessel unless stowed in accordance with § 229.2, or fail to remove any large mesh gillnet gear in the Mudhole South Management Area unless the gear complies with the specified gear characteristics described in paragraphs (b)(3)(ii)(A) through (F) of this section. During this period, no vessel may enter or remain in the Mudhole South Management Area with large mesh gillnet gear on board, unless the gear complies with the specified gear characteristics described in paragraphs (b)(3)(ii)(A) through (F) of this section, or is stowed in accordance with § 229.2. In order to comply with these specified gear characteristics, the gear must have all the following characteristics:

(A) *Floatline length.* The floatline is not more than 3,900 ft (1,188.7 m).

(B) *Twine size.* The twine is at least 0.035 inches (0.90 mm) in diameter.

(C) *Size of nets.* Individual nets or net panels are not more than 300 ft (91.44 m or 50 fathoms) in length.

(D) *Number of nets.* The total number of individual nets or net panels for a vessel, including all nets on board the

vessel, hauled by the vessel or deployed by the vessel, does not exceed 80.

(E) *Number of nets per string.* The total number of nets or net panels in a net string does not exceed 13.

(F) *Tie-down system.* The gillnet gear is equipped with tie-downs spaced not more than 24 ft (7.3 m) apart along the floatline, and each tie-down is not more than 48 inches (18.90 cm) in length from the point where it connects to the floatline to the point where it connects to the lead line.

(iii) *Gear limitations and requirements—small mesh gillnet gear.* From January 1 through April 30 of each year, except during February 1 through March 15 as described in paragraph (b)(3)(i) of this section, no person may fish with, set, haul back, possess on board a vessel unless stowed in accordance with § 229.2, or fail to remove any small mesh gillnet gear in the Mudhole South Management Area unless the gear complies with the specified gear characteristics described in paragraphs (b)(3)(iii)(A) through (F) of this section. During this period, no vessel may enter or remain in the Mudhole South Management Area with small mesh gillnet gear on board unless the gear complies with the specified gear characteristics described in paragraphs (b)(3)(iii)(A) through (F) of this section, or is stowed in accordance with § 229.2. In order to comply with these specified gear characteristics, the gear must have all the following characteristics:

(A) *Floatline length.* The floatline is not more than 3,000 ft (914.4 m) in length.

(B) *Twine size.* The twine is at least 0.031 inches (0.81 mm) in diameter.

(C) *Size of nets.* Individual nets or net panels are not more than 300 ft (91.4 m or 50 fathoms) in length.

(D) *Number of nets.* The total number of individual nets or net panels for a vessel, including all nets on board the vessel, hauled by the vessel or deployed by the vessel, does not exceed 45.

(E) *Number of nets per string.* The total number of nets or net panels in a net string does not exceed 10.

(F) *Tie-down system.* Tie-downs are prohibited.

(4) *Southern Mid-Atlantic Management Area.* The Southern Mid-Atlantic Management Area is bounded by straight

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lines connecting the following points in the order stated:

SOUTHERN MID-ATLANTIC MANAGEMENT AREA

Point	N. Lat.	W. Long.
SMA1	38°47.0'	75°05.0' (DE shore-line)
SMA2	38°47.0'	72°30.0'
SMA3	33°51.1'	72°30.0'
SMA4	33°51.1'	78°32.5' (NC/SC border)

(i) *Closures*. From February 15 through March 15, it is prohibited to fish with, set, haul back, possess on board a vessel unless stowed in accordance with §229.2, or fail to remove any large mesh gillnet gear from the Southern Mid-Atlantic Management Area.

(ii) *Gear limitations and requirements—large mesh gillnet gear*. From February 1 through April 30, except during February 15 through March 15 as described in paragraph (b)(4)(i) of this section, no person may fish with, set, haul back, possess on board a vessel unless stowed in accordance with §229.2, or fail to remove any large mesh gillnet gear in the Southern Mid-Atlantic Management Area unless the gear complies with the specified gear characteristics described in paragraphs (b)(4)(ii)(A) through (F) of this section. During this period, no vessel may enter or remain in the Southern Mid-Atlantic Management Area with large mesh gillnet gear on board, unless the gear complies with the specified gear characteristics described in paragraphs (b)(4)(ii)(A) through (F) of this section, or is stowed in accordance with §229.2. In order to comply with these specified gear characteristics, the gear must have all the following characteristics:

(A) *Floatline length*. The floatline is not more than 3,900 ft (1,188.7 m) in length.

(B) *Twine size*. The twine is at least 0.035 inches (0.90 mm) in diameter.

(C) *Size of nets*. Individual nets or net panels are not more than 300 ft (91.4 m or 50 fathoms) in length.

(D) *Number of nets*. The total number of individual nets or net panels for a vessel, including all nets on board the vessel, hauled by the vessel or deployed by the vessel, does not exceed 80.

(E) *Number of nets per string*. The total number of nets or net panels in a net string does not exceed 13.

(F) *Tie-down system*. The gillnet gear is equipped with tie-downs spaced not more than 24 ft (7.3 m) apart along the floatline, and each tie-down is not more than 48 inches (18.90 cm) in length from the point where it connects to the floatline to the point where it connects to the lead line.

(iii) *Gear limitations and requirements—small mesh gillnet gear*. From February 1 through April 30, no person may fish with, set, haul back, possess on board a vessel unless stowed in accordance with §229.2, or fail to remove any small mesh gillnet gear in the Southern Mid-Atlantic Management Area unless the gear complies with the specified gear characteristics described in paragraphs (b)(4)(iii)(A) through (F) of this section. During this period, no vessel may enter or remain in the Southern Mid-Atlantic Management Area with small mesh gillnet gear on board, unless the gear complies with the specified gear characteristics described in paragraphs (b)(4)(iii)(A) through (F) of this section, or is stowed in accordance with §229.2. In order to comply with these specified gear characteristics, the gear must have all the following characteristics:

(A) *Floatline length*. The floatline is no longer than 2,118 ft (645.6 m).

(B) *Twine size*. The twine is at least 0.031 inches (0.81 mm) in diameter.

(C) *Size of nets*. Individual nets or net panels are not more than 300 ft (91.4 m or 50 fathoms) in length.

(D) *Number of nets*. The total number of individual nets or net panels for a vessel, including all nets on board the vessel, hauled by the vessel or deployed by the vessel, does not exceed 45.

(E) *Number of nets per string*. The total number of nets or net panels in a net string does not exceed 7.

(F) *Tie-down system*. Tie-downs are prohibited.

(c) *Research permits*. An exemption to the requirements set forth in this section may be acquired for the purposes of conducting scientific or gear research within the restricted areas described in this section. A scientific research permit must be acquired

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through NMFS' existing permit application process, administered by NMFS.

(d) *Other special measures.* The Assistant Administrator may revise the requirements of this section through notification published in the FEDERAL REGISTER if NMFS determines that the boundary or timing of a closed area is inappropriate, or that gear modifications are not reducing bycatch to below the stock's PBR level.

[75 FR 7399, Feb. 19, 2010]

§ 229.35 Bottlenose Dolphin Take Reduction Plan.

(a) *Purpose and scope.* The purpose of this section is to implement the Bottlenose Dolphin Take Reduction Plan (BDTRP) to reduce incidental mortality and serious injury of stocks of bottlenose dolphins within the Western North Atlantic coastal morphotype in specific Category I and II commercial fisheries from New Jersey through Florida. Specific Category I and II commercial fisheries within the scope of the BDTRP are identified and updated in the annual List of Fisheries. Gear restricted by this section includes small, medium, and large mesh gillnets. The geographic scope of the BDTRP is all tidal and marine waters within 6.5 nautical miles (12 km) of shore from the New York-New Jersey border southward to Cape Hatteras, North Carolina, and within 14.6 nautical miles (27 km) of shore from Cape Hatteras, southward to, and including the east coast of Florida down to the fishery management council demarcation line between the Atlantic Ocean and the Gulf of Mexico (as described in § 600.105 of this title).

(b) *Definitions.* In addition to the definitions contained in the Act, § 216.3 and § 229.2 of this chapter, the terms defined in this section shall have the following definitions, even if a contrary definition exists in the Act, § 216.3, or § 229.2:

Beach means landward of and including the mean low water line.

Beach/water interface means the mean low water line.

Large mesh gillnet means a gillnet constructed with a mesh size greater than or equal to 7-inches (17.8 cm) stretched mesh.

Medium mesh gillnet means a gillnet constructed with a mesh size of greater

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than 5-inches (12.7 cm) to less than 7-inches (17.8 cm) stretched mesh.

New Jersey, Delaware, and Maryland State waters means the area consisting of all marine and tidal waters, within 3 nautical miles (5.56 km) of shore, bounded on the north by 40° 30' N. (New York/New Jersey border at the coast) and on the south by 38° 01.6' N. (Maryland/Virginia border at the coast).

Night means any time between one hour after sunset and one hour prior to sunrise.

Northern North Carolina State waters means the area consisting of all marine and tidal waters, within 3 nautical miles (5.56 km) of shore, bounded on the north by 36° 33' N. (Virginia/North Carolina border at the coast) and on the south by 34° 35.4' N. (Cape Lookout, North Carolina).

Northern Virginia State waters means the area consisting of all marine and tidal waters, within 3 nautical miles (5.56 km) of shore, bounded on the north by 38° 01.6' N. (Virginia/Maryland border at the coast) and on the south by 37° 07.23' N. (Cape Charles Light on Smith Island in the Chesapeake Bay mouth).

Small mesh gillnet means a gillnet constructed with a mesh size of less than or equal to 5-inches (12.7 cm) stretched mesh.

South Carolina, Georgia, and Florida waters means the area consisting of all marine and tidal waters, within 14.6 nautical miles (27 km) of shore, bounded on the north by a line extending in a direction of 135°34'55" from true north from the North Carolina/South Carolina border at 33°51'07.9" N. and 78°32'32.6" W., and on the south by the fishery management council demarcation line between the Atlantic Ocean and the Gulf of Mexico (as described in § 600.105 of this title).

Southern North Carolina State waters means the area consisting of all marine and tidal waters, within 3 nautical miles (5.56 km) of shore, bounded on the north by 34°35.4' N. (Cape Lookout, North Carolina), and on the south by a line extending in a direction of 135°34'55" from true north from the North Carolina/South Carolina border at 33°51'07.9" N. and 78°32'32.6" W.

Southern Virginia State waters means the area consisting of all marine and